

**ALASKA LABOR RELATIONS AGENCY**  
**Business Meeting, June 8, 2000, 10:00 a.m.**

**MINUTES OF BUSINESS MEETING**

**1. Call to order:** Meeting was called to order by Chair Alfred L. Tamagni, Sr., at 10:15 a.m. in the Department of Labor Building, Room 208, 3301 Eagle St., Anchorage, Alaska. Present at the publicly noticed meeting were Alfred L. Tamagni, Sr., Chair; and members Robert Doyle, Ray Smith. Attending by phone were Blair E. Marcotte, Vice Chair; and members Dick Brickley and Karen Mahurin. Staff members Margie Yadlosky, Jean Ward, and Mark Torgerson also attended.

A sign-up sheet was provided for members of the public. Attending were Dennis Geary, Bruce Ludwig, Jay Yakopatz, Carl Springer and Kent Durand. Attending by phone were Chuck O'Connell, Jay Trumble, and Kelly Brown.

**2. Scope of meeting:** The meeting was called specifically as a followup to the April 21, 2000, board meeting. At the April meeting, the board voted to open the regulation process to address regulations recommended by staff and also address a proposal by the Alaska State Employees Association to amend 8ACC97.990(a)(5), which defines "supervisory employee." However, the board members wanted additional time to review the pertinent regulations. After further review of the proposals, board members were given the opportunity to submit written comments. None were submitted. Chair Tamagni said the Board would have the opportunity to comment on regulations, and then the public could comment.

**a. Review of regulations:** The Board proceeded to review the regulations for which the staff had proposed changes. (See attached draft).

**8 AAC 97.010. PLACE FOR FILING.** There was no board or public comment.

**8 AAC 97.025. PETITION FOR CERTIFICATION OF A PUBLIC EMPLOYEE REPRESENTATIVE.** Bruce Ludwig of the Alaska Public Employees Association (APEA) supports the change. Kent Durand from the State of Alaska asked the Agency to look into whether this proposal is "the law of the land".

**8 AAC 97.060. ACTION ON PETITION.** Staff member Jean Ward discussed concerns about (e)(1) in this regulation. Board members said they had no problem increasing the current six-day period. Dennis Geary of APEA suggested at least 14 business days. Jean suggested 21 calendar days.

**8 AAC 97.060(a). ACTION ON PETITION.** Jean Ward suggested addressing unit clarifications in regulation section 050 rather than this section. She also suggested deleting the issue of UCs under (e)(1). There was no board comment. Jay Trumble of the Alaska State Employees Association (ASEA) stated that subsection (e)(3) is relevant

to a contract bar element.

**8 AAC 97.130. VOTING ELIGIBILITY AND VOTING ROSTER.** After some reconsideration, agency staff recommended the Board not proceed on amendment of this section. There was no board or public comment.

**8 AAC 97.160. CHALLENGED BALLOTS.** Staff suggested changing this from the 1989 version to the 1999 version of the NLRB Casehandling Manual. Member Brickley suggested changing it to make it automatic. There was no public comment.

**8 AAC 97.220 – 230. COMMENCEMENT OF UNFAIR LABOR PRACTICE PROCEEDING; COMPLAINTS OR ACCUSATIONS BY EMPLOYEES; INVESTIGATION AND INFORMAL RESOLUTION.** Chair Tamagni said this section seems like extra paperwork. Member Mahurin said that if this is a practice we are doing, she supports it. There was no public comment.

**8 AAC 97.250(a). REVIEW OF DISMISSAL.** Chair Tamagni and Member Doyle commented briefly on this proposal. There was no public comment.

**8 AAC 97.250(c). REVIEW OF DISMISSAL.** There was no board or public comment.

**8 AAC 97.270(b). MEDIATION.** Jean Ward said this section may contain an ambiguity regarding class II employees. Member Doyle agreed and said this should be clarified to avoid future ambiguity. Chuck O’Connell and Bruce Ludwig commented briefly.

**8 AAC 97.280. ADVISORY ARBITRATION.** There was no board or public comment.

**8 AAC 97.300. STRIKE VOTE.** Chair Tamagni suggested looking into eliminating (1) through (2)(e). He also asked if a strike vote dispute was on appeal in the courts. Staff said there was an issue on appeal. Chair Tamagni asked if the Board should proceed with this amendment. Member Doyle expressed concern about the applicability of this regulation in light of the conflicting Alaska Superior Court decision by the Honorable Judge Gonzalez. It puts the Agency in an awkward position. He said there should be a level playing field, and it should be amended. Member Smith agreed. He said the strike vote process is an internal union affair. Member Mahurin expressed concern about the court appeal, and its potential effect on any amendment to this section.

From the public, O’Connell suggested eliminating the word “after” in subsection 300(a). He also pointed out the National Labor Relations Board (NLRB) does not deal with Class I type employees. James Gasper from the Public Safety Employees Association said the issue may be mooted by a subsequent supreme court decision. Jay Trumble from ASEA said oral argument is scheduled for the supreme court case for September. Chair Tamagni said the Agency may save some dollars by waiting until after the decision.

Durand expressed concerns about amending this section. He said good faith bargaining surrounds this issue. He expressed concern that a union may not bargain seriously until it gets a strike vote.

**8 AAC 97.340. UNFAIR LABOR PRACTICE.** There was no board or public comment.

**8 AAC 97.350. PROCEDURES FOR OTHER HEARINGS.** Regarding this proposed change to venue issues, Member Doyle suggested deleting everything after the first sentence in subsection 350(g). Member Mahurin agreed. Bruce Ludwig of APEA disagreed. He described an extensive hearing in Fairbanks. To hold this hearing elsewhere would have been a problem. Chair Tamagni said this was not necessarily proposing to hold teleconference hearings. Member Smith said the Board is sensitive to holding in-person hearings but needs to decide venue with financial realities as a consideration. Member Mahurin said she prefers hearings in-person. Ludwig said maybe the Agency's budget should be one of the criteria. Member Doyle agreed with Member Mahurin. He added that regulations are no substitute for common sense.

**8 AAC 97.390. MOTIONS.** There was no board or public comment.

**8 AAC 97.470. APPEAL.** There was no board or public comment.

**8 AAC 97.990(b). DEFINITIONS.** Member Doyle said the Agency needs to bring this definition of "appointed officials" in compliance with the superior court's decision. Dennis Geary of APEA said that historically, this issue carries over from the former Department of Labor Labor Relations Agency (DOLLRA). He said by amending this, you are going to change the way municipalities do business. He said APEA applies this regulation to situations. The question is, how far down the chain of command does this definition go?

**8 AAC 97.990(a)(5). DEFINITIONS.** Member Mahurin said this amendment needs no change. Chuck O'Connell of ASEA said its membership is down 10% as a result of the prior amendment to this definition of "supervisory employee." He said the prior amendment was disruptive and had the effect of increasing the size of middle management in state government. Bruce Ludwig of APEA this amendment was changed a long time ago, in 1995. He asserted that the amendment is not what is causing the exodus of membership from ASEA. He said a dispute over the 1995 amendment to the definition of "supervisory employee" was carried all the way to the supreme court, which said the amendment was valid. He adamantly opposes any amendment to this definition. Geary said another amendment would cause changes to municipal bargaining units.

**b. Board vote on how to proceed.**

The Board then voted on how to proceed with the project. Member Doyle moved to have staff draft regulations of all proposed sections except 8 ACC 97.130; 8 AAC 97.250(a) or (c), 8AAC 97.390; and 8 AAC 97.990(a)(5), get public comment on the proposals. Member Mahurin seconded this motion. The Board voted unanimously to approve this motion. There was then discussion about allowing emailing of documents to section 8 AAC 97.020, in lieu of faxing them. The Board voted to add this amendment to the list.

**3. Adjournment.** The meeting adjourned at 11:30 a.m.